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COMMITTEE ON THE RIGHTS OF THE CHILD

Fifth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Mexico

1. The Committee considered the initial report of Mexico (CRC/C/3/Add.11) at its 106th and 107th meetings (CRC/C/SR.106-107), held on 11 January 1994, and adopted 1/ the following concluding observations:

A. Introduction

2. The Committee notes with satisfaction the early ratification of the Convention and the timely submission of the initial report of Mexico. In particular, the Committee appreciates the comprehensiveness of the report, which contains detailed information on the legal framework within which the Convention is implemented. The Committee, however, notes with regret the lack of information on the factors and difficulties impeding the implementation of the various rights recognized in the Convention, as well as the insufficiency of information on the concrete effects of measures adopted.

3. The Committee welcomes the written information provided by the Government in reply to the questions set out in the list of issues (CRC/C.4/WP.3), which were communicated to it before the session. Furthermore, the supplementary information provided by the delegation and its knowledge of matters connected with the Convention made it possible to engage in an open and constructive dialogue. The Committee also notes with appreciation the fact that replies to

1/ At the 130th meeting, held on 28 January 1994.

a number of questions raised during the dialogue were sent in writing to the Committee shortly after the consideration of the report.

B. Positive aspects

4. The Committee welcomes the efforts made by the State party in bringing domestic law into line with the Convention, through the enactment of new laws, the amendment of the Constitution, and the adoption of programmes specifically aimed at promoting and protecting the rights of the child. Among these achievements was the adoption, following the World Summit for Children in 1990, of the National Programme of Action, which focused on the areas of health, education, basic sanitation and assistance to minors in especially difficult circumstances as well as the periodical evaluation of the National Programme of Action. Other welcome developments are the adoption of the Law on the Treatment of Juvenile Offenders and the incorporation, in the Constitution, of the right of everyone to education through the amendment of its articles 3 and 31. The Committee also notes with interest the various activities undertaken by the National Human Rights Commission in the field of children's rights as well as the adoption of the National Development Plan and the Solidarity Programme aimed at solving the serious economic and social problems encountered by the country.

5. The Committee also notes with satisfaction the serious efforts undertaken to inform children with respect to the Convention and to encourage their participation in the implementation process through various innovative means.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee takes note of the existing disparities in the country and the difficult economic and social situation of Mexico, characterized by a high level of foreign debt, the inadequacy of budgetary resources earmarked for essential social services benefiting children and the unequal distribution of the national wealth. These difficulties severely affect children, particularly those living in poverty and children belonging to minority groups or indigenous communities. The Committee also notes that the high level of violence in the society and within the family and the recent political violence connected with the uprising in the Chiapas region have a considerable negative impact on the situation of children in Mexico.

D. Principal subjects of concern

7. The Committee expresses its concern at the fact that laws and regulations relevant to the enforcement of the rights of the child are not always compatible with the provisions of the Convention. It regrets that there is no provision in the national legislation relating to the best interests of the child or the prohibition of discrimination against children. Mere reference in the report to the Convention as being the "Supreme Law of the Land", pursuant to article 133 of the Constitution, should not preclude the Government from taking the necessary steps to fully harmonize national legislation with the provisions of the Convention, namely in the light of article 4 of the Convention. Similarly, the National Programme of Action adopted in 1990 and its enforcement machinery, based on the targets identified by the World Summit for Children, do not fully take into account the

particularities of the Convention. Furthermore, similarly to the National Programme of Action adopted in 1990 and its enforcement machinery based on the targets identified by the World Summit for Children, a monitoring mechanism should be established to follow the implementation of the Convention.

8. The national legislation and practice should take into full consideration, in the light of article 5 of the Convention, the capacity of the child to exercise his or her rights, namely in the field of citizenship.

9. The Committee expresses its concern at the unequal distribution of the national wealth in the country and the disparities and discrepancies in the enforcement of the rights provided for under the Convention between the different regions of the country, to the detriment of rural children and children belonging to minorities or indigenous communities.

10. The Committee is troubled by the great number of complaints of ill-treatment of children attributed to the police and security or military personnel and is disturbed by the failure to take effective steps to punish those found guilty of such violations or to make public eventual punishments; this may lead to a feeling on the part of the population that impunity prevails and that it is therefore useless or dangerous to bring complaints before the competent authorities. The Committee is also preoccupied by the existence on a large scale of child abuse and violence within the family.

11. The Committee is worried at the lack of implementation, in practice, of the provisions of the Convention and domestic legislation relating to the administration of juvenile justice and the treatment of young offenders.

12. The Committee is alarmed at the large number of children who have been forced, in order to survive, to live and/or work in the street. The exploitation of children as migrant workers is also of deep concern. Domestic law and its application in practice do not appear to be in conformity with the provisions of the Convention and relevant Conventions of the International Labour Organisation relating to the employment of minors.

13. A large percentage of children living in difficult circumstances, in particular children belonging to minorities or indigenous communities, appear to have left school without having been able to complete their primary education.

14. The Committee also notes with concern the high number of international adoptions of Mexican children.

E. Suggestions and recommendations

15. The Government must take all necessary steps, in all areas, to ensure the respect and actual implementation of the provisions contained in national legislation relating to the rights of the child. Furthermore, the Committee recommends that the State party takes necessary steps to fully harmonize federal and state legislation with the provisions of the Convention. Principles relating to the best interests of the child and the prohibition of discrimination in relation to children should be incorporated into domestic

law, and it should be possible to invoke them before the courts. Relevant mechanisms should also be set up, in parallel to those deriving from the National Programme of Action, to monitor the implementation of the Convention at the federal, state and local levels. Coordination between the various levels of the administration as well as the cooperation with non-governmental organizations involved in the implementation of the Convention and the monitoring thereof should be strengthened.

16. The Committee emphasizes that the best interests of the child must be a guiding principle in the application of the Convention and that the authorities should undertake all appropriate measures to the maximum extent of their available resources to ensure that sufficient resources are allocated to children, particularly children living and/or working in the streets, children belonging to minority groups or indigenous communities and other vulnerable children.

17. The Committee recommends that the State party should intensify its action against all violence resulting in cases of ill-treatment of children, in particular when committed by members of the police forces and security services and the military. The State party should ensure that cases of crimes committed against children by members of the armed forces or the police are tried before civilian courts.

18. The Committee recommends that urgent measures be adopted to combat discrimination against children belonging to the most vulnerable groups, in particular children subject to abuse or violence within the family, children living and/or working in the streets and children belonging to indigenous communities, including measures to eliminate and prevent discriminatory attitudes and prejudices such as those based on gender. In the framework of the adoption process, due consideration should be given to the provisions of article 12 of the Convention. Furthermore, intercountry adoption should be considered in the light of article 21, namely as a measure of last resort.

19. Finally, the Committee recommends that the provisions of the Convention should be widely publicized among the general public and, in particular, among teachers, social workers, law enforcement officials, the staff in correctional facilities, judges and members of other professions who are concerned with the implementation of the Convention. The Committee further recommends that, in the light of article 44, paragraph 6, of the Convention, the report submitted by the Government be made widely available to the public at large, including NGOs, and that the publication of the report be considered along with the relevant summary records and the concluding observations adopted thereon by the Committee.